

REMARKS

Reconsideration and allowance of the claims are requested in view of the above the following remarks. Claims 1-36 are pending in the present application, with claims 1, 13 and 24 being independent.

Double Patenting

The Office Action has provisionally rejected claims 1-36 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims in copending US. Patent Applications No. 10/690,422, 10/849,090, and 10/994,010. Applicants intend to file a terminal disclaimer when the double patenting rejection becomes final and when the claims of the present application are allowed.

Rejections Under 35 U.S.C. §103

The Office Action rejects claims 1, 3-8, 13, 14, 16-19, 24, 25, 25, 32-36 under 35 U.S.C. § 103(a) as being unpatentable over Bandini et al. (U.S. Patent 7,117,358) in view of Mastrianni (U.S. Publication No. 200200116641). In addition, the Office Action rejects claims 2, 9-12, 15, 20-23, 26-31 under 35 U.S.C. § 103(a) as being unpatentable over Bandini et al. in view of Mastrianni and further in view of Lewis et al. (U.S. Publication No. 20030109248). Applicants respectfully request reconsideration of the rejection for at least the following reasons.

Applicants submit that the Mastrianni and Bandini combination does not teach a monitor as claimed in the present application. As such, the combination Mastrianni-Bandini does not teach all of the elements in the recited claims.

The Office Action now cites Bandini as disclosing a packet sniffer. However, Bandini fails to teach “a monitor that communicates with the plurality of packet sniffers and that monitors data regarding the originating IP addresses, wherein the monitor is configured to

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determine whether traffic from an originating IP address has exceeded a threshold value, the monitor being further configured to generate a response to detect spam e-mail messages if the threshold value has been exceeded.” The Office Action relies on the email server 40 disclosed in Bandini as the monitor. *See* Office Action Page 6, Line 13 (citing Bandini Col. 2, lines 9-14); *see also* Office Action Page 8, Line 5 (rejecting Claim 4, 14 “where the monitor resides on a server separate from the packet sniffers. (see col.2 lines 9-14: email relay separate from email server)”). Nowhere in Bandini does the email server 40 provide the functionality of the monitor as recited in the claims of the present application. Bandini teaches that “the e-mail relay compares attributes of the incoming messages to attributes of messages in the SPAM database. If the comparison result is beyond a threshold match level, the e-mail relay restricts the delivery of the message.” *See* Bandini, Column 1, Lines 35-40. Therefore, Bandini does not teach a separate “monitor that communicates with the plurality of packet sniffers and that monitors data regarding the originating IP addresses, wherein the monitor is configured to determine whether traffic from an originating IP address has exceeded a threshold value, the monitor being further configured to generate a response to detect spam e-mail messages if the threshold value has been exceeded.”

Furthermore, the semantic engine disclosed in Mastrianni does not cure this deficiency. The Office Action relies on the semantic engine of Mastrianni. However, the semantic engine as disclosed by Mastrianni does not anticipate or provide the functionality of a “monitor that communicates with the plurality of packet sniffers and that monitors data regarding the originating IP addresses, wherein the monitor is configured to determine whether traffic from an originating IP address has exceeded a threshold value, the monitor being further configured to generate a response to detect spam e-mail messages if the threshold value has been exceeded.” The Office Action indicates that Mastrianni discloses wherein: [sic]

....

b) the monitors data regarding the originating IP addresses, determines whether traffic

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from an originating IP address has exceeded a threshold value. (see Mastrianni paragraph [0007], lines 5-7; paragraph [0020], lines 12-17; paragraph [0038], lines 1-2: originating IP addresses used for email processing).”

As taught by Mastrianni, the semantic engine assigns weights to objectionable words. The threshold value in Mastrianni refers to values of weights to words in email content, and not “whether traffic from an originating IP address has exceeded a threshold value.” Therefore, Mastrianni does not teach “a monitor that communicates with the plurality of packet sniffers and that monitors data regarding the originating IP addresses, wherein the monitor is configured to determine whether traffic from an originating IP address has exceeded a threshold value, the monitor being further configured to generate a response to detect spam e-mail messages if the threshold value has been exceeded.” Accordingly, Bandini et al. and Mastrianni, alone or in combination, does not disclose a monitor as disclosed in the present application.

Therefore, since Bandini et al. and Mastrianni, alone or in combination, fail to disclose or suggest all of the elements of claims 1, 13 and 24, these claims are allowable. Furthermore, claims 2-12 depend from claim 1. Claims 14-23 depend from claim 13. Claims 25-36 depend from claim 24. As discussed above, claims 1, 13 and 24, are allowable over Bandini et al. and Mastrianni. For at least this reason, and the additional features recited therein, claims 2-12, 14-23 and 25-36 are also allowable. For at least the reasons above, reconsideration and withdrawal of the rejection of claims 1-36 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

Accordingly, in view of the above amendment and remarks it is submitted that the claims are patentably distinct over the prior art cited and that all the rejections to the claims have been overcome. Based on the foregoing, applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is

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requested to call the applicants' attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,
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Date: December 20, 2007

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